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Remarks

Reconsideration of the above-captioned application is respectfully requested. Claims 1, 3, 5, 7, 10, and 12 (of which Claims 1 and 7 are independent) have been rejected under 35 U.S.C. §102 as being anticipated by Allen et al., USPN 5,903,409, and Claims 2, 4, 6, 8, 9, 11, and 13-18 (of which Claim 13 is independent) have been rejected under 35 U.S.C. §103 as being unpatentable over Allen et al. in view of Smith, USPP 2002/0186492.

In Allen et al., the relied-upon bumps 15, 17, and 19 on the suspension perform the opposite function of the present motion limiting elements, namely, Allen's bumps preferentially contact the regions of the disk that are below the bumps in the presence of shock, instead of functioning to limit slider motion to prevent such contact. For this reason, Allen et al. teaches that the areas below the bumps either have no data, or they contain only non-critical data or data that has strong ECC encoding, so that it might be recovered in the event of contact between the bumps and the disk.

With the above distinctions in mind, the amendments advanced herein to the independent claims can now be appreciated. Claim 1 now recites that the active region is immediately under a motion limiting element that protrudes toward the disk, and in response to write commands, data is always written to the active region. As explicitly taught in Allen et al. either no data at all is written to the areas under the bumps, or only certain types of data (non-critical data or data with strong ECC encoding) is written there, but writing *all* data initially to the regions under the bumps would defeat the purpose of Allen et al. and would be directly contrary to its teachings. Accordingly, it is believed that Claim 1 and, for similar reasons, amended Claim 7, are patentable.

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Amended Claim 13 likewise is patentable because unlike the teachings of Allen et al. noted above, in Claim 13 the controller selectively moves data from the archive region to the active region without regard for the type of data being moved (as shown in the present flow chart, wherein data is moved regardless of type of data but based instead on frequency of access), Data movement between active and archive regions is not mentioned in Allen et al., with Smith being resorted to for the shortfall, but moving data stored the regions under the bumps in Allen et al. to any other location for any reason without regard for the type of data being moved plainly would defeat the purpose of Allen et al. because critical data would then be periodically moved under the contact regions, exposing it to the loss that Allen et al. seeks to avoid. Accordingly, modifying Allen et al. to arrive at amended Claim 13 would be improper, see MPEP §2143.01 (citing In re Gordon.)

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed.

Applicant notes that in several claims, the conjunctive "and" has been changed to "or" to comply with Superguide Corp. v. DirectTV Enterprises, Inc., 358 F.3d 870 (Fed. Cir. 2004) in which a claim recitation of "at least one of A, B, C, and D" was held to minimally require at least one element from each of the categories A, B, C, and D, not one or more elements from one or more categories as intended in the present case, with the Federal Circuit noting that for the latter interpretation to hold, the conjunctive "or" should be used.

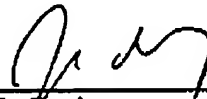
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The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



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